

# **STRATEGIES TO COMBAT SEX TOURISM AND INTERNATIONAL TRAFFICKING IN WOMEN**



DIALOGREIHE  
ENTWICKLUNGSPOLITIK  
8

A 94 - 03801

**FRIEDRICH  
EBERT   
STIFTUNG**

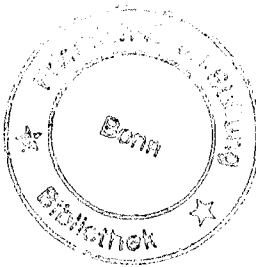
---

**STRATEGIES TO COMBAT  
SEX TOURISM AND  
INTERNATIONAL TRAFFICKING  
IN WOMEN**

A 94 - 03801

---

**FRIEDRICH  
EBERT   
STIFTUNG**



Publisher: Friedrich Ebert Foundation (FES)  
Godesberger Allee 149  
53170 Bonn

Introduction: Dr. Ludgera Klemp, FES  
Pia Bungarten, FES

Editors: Astrid Becker, FES  
Pia Bungarten, FES  
Marie Wurster

Translation: Dorothea Dahl

Original German title: Strategien gegen Prostitutionstourismus und internationalen Frauenhandel (Series "Entwicklungspolitik", vol. 7)

August 1994

The interview with Mr. Schwerdtfeger was conducted by Pia Bungarten, FES

Minutes of the discussion on 8.3.1993 at the Friedrich Ebert Foundation on the topic of "Strategies to combat sex tourism and international trafficking in women" by Elke Bröder

Typeset by Gerd Ernst, FES  
Printed by graphoprint GmbH, Koblenz  
Printed in Germany 1994

ISBN 3-86077-099-3

## Table of Contents

Dr. Ludgera Klemp and Pia Bungarten

**Introduction** 5

Dr. Lea Ackermann

**Sex Tourism and Organized Trafficking in Women from Countries of the Third World: Extent and Underlying Causes** 9

Annabelle Gambe

**Women as Guest Workers and Workers in the Tourist Industry – Exploitation or Instrument of Development?** 18

Wilhelm Schwerdtfeger

**Problems Encountered in the Prevention of Trafficking in Human Beings: The Police Viewpoint** 26

Friedrich-Wilhelm Schulte

**Observations on the Twenty-Sixth Criminal Justice Amendment – Trafficking in Human Beings (26.StrÄndG) of 14 July 1992 – German Civil Code I p. 125 – entry into force 22 July 1992** 32

Elke Bröder

Summary of the Discussion 37

Marie Wurster

Summary of the Most Important Recommendations of the Study "Context and Extent of Trafficking in Foreign Girls and Women" Carried Out by the Federal Ministry for Women and Youth 44

Dr. Ludgera Klemp and Pia Bungarten

## **Making Money out of Women: Strategies to Combat Sex Tourism and International Trafficking in Women – Introduction**

On International Women's Day on 8.3.1993, the Friedrich Ebert Foundation invited Dr. Lea Ackermann, Annabelle Gambe and experts from the field of politics and the relevant ministries to discuss strategies to combat sex tourism and trafficking in women. Causes and effects of organized trafficking in women and of sex tourism were discussed.

On International Women's Day in 1988, 63 women members of parliament from all political parties had raised the issue of trafficking in women for the first time in a debate at the Bundestag [Federal Parliament], calling it a grave violation of human dignity and of the human rights of women.

The call to afford the women affected better protection by implementing measures under criminal law and industrial law led to new legislation being passed in 1992. According to the latest legal definition, trafficking in women is deemed to have taken place when someone "for personal gain influences another person and induces her to take up or continue prostitution in full knowledge of the fact that she is hard pressed and in an exingency." Similarly anyone "who influences a person in full knowledge of the helplessness caused by her being in a foreign country to induce her to sexual acts" is also punishable under the law. According to this amendment to the articles concerning traffic in human beings of 1992, it is no longer necessary to prove "recruitment for gain" to be able to initiate criminal proceedings, it suffices for the perpetrator to "have influenced someone for personal gain." Anyone who influences a woman in full knowledge of her helplessness can be prosecuted under criminal law even if at the moment of recruitment the helplessness arising from the stay abroad is not yet relevant.

Following this amendment, the legal uncertainty of the authorities when judging offences of trafficking in human beings is expected to decrease and the possibilities for effective criminal prosecution should increase.

There is a close link between trafficking in human beings and prostitution. Trafficking in women often begins with a shady matrimonial agency arranging a marriage for foreign women. Dr. Lea Ackermann is co-author of the study "Context and extent of trafficking in foreign girls and women". Using examples she shows how women who were brought to Germany by marriage bureaus are kept dependent because they do not speak the language, are sexually abused and often forced into prostitution. In this way brokering of marriages turns into trafficking of human beings.

What causes women to take the high risk of an arranged marriage in a foreign country is often sheer economic necessity and a lack of prospects in their home country. For the same reason, the number of women in many countries who are turning to prostitution is rising. Often as girls they were forced to leave school because their parents were unable to pay the school fees. In many cases their husbands have left them. And so the question of whether women become prostitutes of their own free will is hypocritical. It ignores the fact that under the conditions of extreme poverty which affect women to a greater degree there can be no real free choice because the silent force of poverty drives women into prostitution.

The problem is now being heightened by the dramatic rise in child prostitution. The Human Rights Commission of the United Nations estimates that over 1 million children each year are forced into prostitution. In order to mitigate this problem, the German legal provisions were tightened so that people using child prostitutes in other countries are now subject to prosecution in Germany.

When discussing the causes of the sexual exploitation of women and children it is essential to look at the power relationship between North and South, men and women, adults and children. The "rich world" is contributing to this trend in two respects: first, because millions of

men from the "rich world" take part in sex tourism. There is little point in treating these men as pathological since they are usually perfectly normal men who only make use of their male privileges and perfectly normal institutions of our society: marriage, prostitution and tourism. Secondly, competition and protectionism on world markets, debt burdens and the inevitable pressure to earn foreign currency have led to new forms of development strategies which discriminate against women. In her paper, Annabelle Gambe analyzes modernization and development strategies which discriminate against women and points out structural conditions which have led to an internationalization of the prostitution and marriage markets.

The tourist industry is an important economic factor for many developing countries. In Kenya, for example, tourism is the most important source of foreign exchange, ahead even of tea and coffee exports. Nevertheless, there are not enough jobs to go round. Tourism is seen as a development strategy, and women are used in the hard competitive world of international business. Growing prostitution markets exist in the Philippines, Thailand, Kenya, Ghana, the Dominican Republic, Brazil, Poland and Romania amongst others.

Thus, the problem of prostitution affects women in the Third World to a particularly acute extent. The discussion has shown how criminal networks have developed, which engage in trafficking of women and children as if they were commodities, importing them from the so-called Third World or using them in their own countries. They are treated as people with no rights.

A further problem is that in Germany marriage and friendship agencies are not obliged to register their businesses. They have to notify the authorities but not to seek a license. The trading regulations of Bavaria and North Rhine-Westphalia now contain provisions for checking out businesses, allowing the authorities to look into their activities. But the estimated number of undetected cases is high: many marriage agencies have not registered their activities as businesses but run them privately.

It has become clear that there is a great need for counselling of the professional groups which come into contact with the problem, starting with local police forces and judges and including the staff of the trade supervisory authorities. They often have difficulty in recognizing and acknowledging the problem. Far too often the problems are trivialised and not seen as a violation of the dignity of human beings guaranteed under Germany's Basic Law.

Dr. Lea Ackermann

## **Sex Tourism and Organized Trafficking in Women from Countries of the Third World: Extent and Underlying Causes**

The fact that each year hundreds of thousands of Germans travel to countries of the so-called Third World is a sign of an unhealthy economic development: Germans and other holiday-makers from Western countries can afford holidays in countries of the Third and Fourth World, they have both the money and the leisure to do so. The people of the Third World have been subject to a development in recent years which has driven their countries and them as individuals into increasing misery. Falling commodity prices on world markets, the exodus of farmers from the countryside, one-sided subsidies for export-oriented sectors of the economy, neglect of the subsistence economy and rural areas, but also mass tourism have all contributed to this development. The poverty on the one side enables the rich on the other side to profit from the misery and to enjoy cheap vacations in these "holiday paradises".

Tourism in Third World countries has been expanding for years; the number of women and children who are becoming prostitutes for the tourists is also rising. The connection between mass tourism, sex tourism and the epidemic-like spread of AIDS has been proven. In order to back this up with figures, I shall quote from the study "Context and extent of trafficking in foreign women and girls" which appeared in a series published by the Federal Ministry of Women and Youth, vol. 8, Stuttgart 1992. I prepared this study with Dr. Dagmar Heine-Wiedenmann.

"Thailand had over five million tourists in 1990, 70 % of the visitors are men. Quantitative studies have shown that between 50% and 70% of male tourists come mainly for sexual contacts."

Since 1982, tourism has been Thailand's number 1 source of foreign exchange. With an annual rise of 20%, foreign currency income amounted to around 6 million DM in 1988. Nevertheless, it must not be overlooked that, according to a study carried out at the University of Bangkok, 56 % of the foreign currency income of 1987 was spent on imports, interest payments and profits and thus flowed out of the country again.

The tourist industry in Thailand dominates at the expense of agriculture which is neglected by economic policy. More and more people, particularly from the very poor rural North of the country, are pouring into the cities. The number of prostitutes in Thailand is estimated to be at least 1.5 million women. That figure has risen in direct proportion to the number of tourists. Like in most developing countries, prostitution is officially not allowed in Thailand.

In view of the enormous foreign exchange income and because many politicians and respected business people are involved in the sex industry, the whole issue of prostitution was treated with great reserve for a long time. Correspondingly, resistance from certain political groups and sections of the population to tackling the AIDS problem was high, particularly in recent years. Politicians who sided strongly with the AIDS campaigners were treated disparagingly for fear that the sex industry would be jeopardised. A good two years ago that began to change slightly. Thailand has a higher proportion of people infected with AIDS than any other Asian country.

The Philippines had over a million tourists in 1990; 27,000 were German and 67% of those were male. The country is impoverished and deeply in debt. Although here studies prove that only a small amount of the foreign currency brought in by tourists actually stays in the country, great efforts are being made to expand tourism. Even today the number of women working as prostitutes is estimated at over 500,000 and the number of children in prostitution is alarmingly high. Another devastating development is the export of the female labour force. To accomodate foreign countries nothing is done when work contracts with these emigrant women are broken or when they are forced into illegal situations or prostitution. Many concessions are

made, which are actually against the law, simply because these women working abroad earn the most foreign exchange, followed by that acquired from tourism.

Another highly sought after holiday destination for German tourists is Kenya. In 1990, 695,000 foreign tourists came to the country, the Germans heading the list with 123,000. Here too, poverty forces women to earn money through prostitution. The number of people infected with AIDS here has risen constantly in recent years. The official figures for AIDS victims lag way behind reality. In 1990 World AIDS Day was held for the third time. The newspapers carried reports of 500,000 AIDS sufferers.

The Dominican Republic has become the absolute "hit" with package tour operators. This Caribbean island has only been on offer to German tourists for a few years but by 1990 German tourists already totalled 100,000. 130,000 Germans are expected in 1991, "sensational bargains" will guarantee that. Other Caribbean islands are also registering growth rates of between 30% and 100%. The Dominican Republic has 30,000 unemployed and between 20% and 40% underemployed people. Yet 500,000 workers have been "exported," primarily to the U.S.A. The new immigration restrictions imposed by the U.S.A. will limit this source of foreign exchange so that the Caribbean island is now placing all its hopes in tourism. Female unemployment in the cities is twice as high as male unemployment. Jobs as domestic staff are so badly paid that it is impossible to live on them. Thus the high number of women who are forced to turn to prostitution is not surprising. The women commute between the Caribbean islands or are hired by touts in the capital city and taken abroad. There was a tragic accident in 1987: 28 of 60 prostitutes, who were crammed into containers to be shipped from St. Martin to St. Thomas, suffocated.

According to official estimates, at least 6,000 Dominican women work in Haiti and in European cities. The state does nothing to prevent trafficking in women. The foreign exchange income from the money the exiled Dominicans send home is already higher than the proceeds from sugar exports.

The Brazilian embassy says that 100,000 German tourists visit Brazil each year. Brazilian women are also traded on the international marriage market in Germany. In order to get round the obstacle of "smuggling people in" (Article 90 of the Aliens Act) many marriage brokers offer a trip to Germany as part of the deal.

Prostitution is against the law in Thailand, the Philippines and Kenya. In Mombasa, for example, the police conduct raids at least once a month. The women are taken into custody and/or "made to cough up money" for "loitering with intent to prostitution". The maximum penalties are a fine of up to 200 DM or up to six months in prison. The sex tourists get off scot-free, they are neither arrested nor "made to cough up." Many concessions are made to them to avoid putting them off in any way. After all they bring in the desired foreign currency. One concession the government has made is to set up a clinic where prostitutes can be examined for venereal diseases. They have to go there every two weeks and if they are healthy they receive a green card. They have to show this card to the hotel porters. An African woman is not otherwise allowed into a hotel without a male escort, particularly not into "good" hotels. This is an example of discrimination against African women in the African country of Kenya. Tourists bring in foreign currency which seems to guarantee them a free rein to do what they like. The tourist, and particularly the sex tourist, comes from one of the rich Western countries, to a Third World country, where the vast majority of the people live in abject poverty and misery. Even if the tourist has had to save hard or borrow the money for his holiday, he will try to show off his supposed wealth in Africa or Asia. He can show his own worth to the poor people there and increase his self-confidence. He believes that there must be something superior about being German if so many Germans can make such a trip. No doubt many tourists return from their holidays with this arrogant and unrealistic view. This attitude does not contribute to greater understanding between peoples but to the xenophobia which is horrifying more and more Germans.

Tourists are the ambassadors of the rich world. They are seen as representatives of their world and observed as such: they are not all clever and well-educated, but nevertheless they have money. And so

the inhabitants of these poorer countries think that the tourists earn their money easily back home. For they work long, hard hours and yet have little money. They barely earn enough to survive. They walk to save the bus fare. They often live in slums without water or electric light. A fantasy world is created for the tourists which the natives can only dream of but which they help to finance.

There are many mechanisms of exploitation which are responsible for the misery of the people in the so-called Third World: the guests of the Friedrich Ebert Foundation will be very familiar with most of them. It is material poverty and patriarchal structures which drive women into destitution. In this situation a husband from the rich West or a job in Europe or America seems like the way to escape misery and poverty.

Very often the women do not realize until later just how high a price they have paid. Trafficking in women takes the form of sex tourism, international marriage brokering and illegal job recruitment. The women are treated as if they were goods. The tourism industry, for example, does business both openly and clandestinely with women. The hotels are specially geared to it. Sometimes married couples are warned: "This very lively hotel is not suitable for married couples." The travel consultant "Thailand/Burma" encourages the undecided: "As a man travelling alone no-one may begrudge you the pleasure of finding a Thai girlfriend during your stay in the country. Don't let yourself be driven crazy by the nagging of some women's groups who are eager to see the Thai women as being exploited ...".

Many a sex tourist brings a woman home with him as if she were a holiday souvenir. Very often these women come to our contact centre for trafficked women "Solwodi – Solidarity with Women in Distress." For instance, a man from Cologne brought a woman he had met on the beach back with him from his holiday in Cameroon. She had been selling homemade cakes and seemed to be a good worker who would cause him no trouble. He lived alone in Germany and had to look after his sick, dependent father. He married the woman from Cameroon and brought her back to Germany. She was supposed to keep house for him, look after his father and be a loving wife. In Germany he was



ashamed of his black wife. At most she was allowed out on the street with him in the evening. He couldn't talk to her. The language course she wanted to enrol in for was too expensive, he said. He gave her no money. He did all the shopping himself. His father needed constant care and so he locked the woman in the flat with the father. For four years she went along with this and then she ran away. He didn't mind at all and lodged a complaint to the aliens registration authority who took her residence permit away.

An unemployed house painter from Bonn came up with a similar idea. He had just come out of prison, took out a loan and flew to the Dominican Republic. There he married a very young woman and brought her back to Germany to his one-room basement flat. His plan was simple: the woman would work for him in Germany as a prostitute and he could start a new comfortable life. The woman fled and wandered the streets of Bonn lost and confused. An attentive passer-by spoke to her. She was brought to Solwodi by women from the Catholic Women's social unit.

The list of shattered hopes and degrading experiences which women have suffered could be continued ad infinitum. These two examples shall suffice here to represent many others. International marriage brokering is a modern form of trafficking in women, even if the Koblenz County Court seemed to decide to the contrary in a judgement of 1990 which pronounced: "Marriage brokering does not constitute trafficking in human beings." The case concerned arranging marriages for Philippine women. But the judgement can only be properly understood if one realizes that the term trafficking in human beings is a set legal term, under which it is a criminal act punishable under law to forcibly induce someone to prostitution. Marriage deals with women from Asia, South America or the Eastern Bloc do not come under trafficking in human beings as such but nevertheless often involve a form of trafficking in women which is not legal. This activity contravenes Article 92 of the Aliens Act if the foreign woman enters the country as a tourist and has not acquired a visa for marriage purposes, in other words a residence permit for more than three months. In these cases the marriage broker is illegally smuggling foreign women into the country and taking payment for passing them on

to men seeking wives. This offence is punishable with up to three years imprisonment or a fine.

There is a world of difference between national marriage agencies and international brokering. The foreign women are offered to the men here and not vice-versa; it is entirely one-sided. The man chooses a woman and pays for her. The act of paying seems to be an important part of the process: it makes the man the "owner" of the woman. The women remain to a great extent passive in this transaction. In most cases they have not even seen a picture of their future partner, they have virtually no choice in the matter. Often they are passed on to the interested customer immediately on arrival in Germany. An "exchange guarantee" enables the customer to "give back" the woman if, for whatever reason, she does not suit him, or if after being "tried out" she doesn't meet his requirements. Conversely the reservations of the women about the men are only acknowledged by the marriage brokers after resolute negotiating and boycotts by the women. In addition, the foreign women are often helpless and have communication difficulties; similarly, they are often given no or only scant information about the law and their own scope for decision. A further factor is the isolation and dependency, first on the marriage broker to whom they owe their travel expenses and who therefore keeps their passports and return tickets, and then later on their husbands. They feel obliged to be friendly and accommodating and to some extent accept the men as their fate. The women are under enormous pressure since they enter the country as tourists (now with a stamp in their passports) and therefore have to find a partner within the three months validity of their residence permits.

The law consolidates this dependency since marriage does not give the women the right to a residence permit in their own right. Under the new Aliens Act of 1991, a foreign woman must have lived at least four years with her German spouse in order to be granted residence status in her own right if they divorce. In extreme cases three years suffice. By issuing a limited residence permit the aliens registration authorities have contact with the applicant for residency and can establish whether the marriage still exists. They would otherwise learn only by chance of a separation. If the marriage is terminated due to the death of the German spouse or by separation or divorce, after

this three- or four-year period, the residence permit of the foreign woman is extended by a year; there is nothing to prevent her from receiving social security benefits.

The case of Lina is a typical example of international marriage brokerage. We heard about her through a phone call from a doctor's office. "We have a Philippine woman here who is in a very bad state. Her husband recounts openly that he acquired her for 5,000 DM and now she is supposed to prove that she was worth the money. He therefore "puts her to work wherever possible" particularly sexually. The woman is a physical and nervous wreck, on the edge of a breakdown. Can you not do anything to help?" We often get cries for help like this one at Solwodi. We helped Lina to run away and took her in. Lina was gripped with fear, the only thing she wanted was to go home, back to the Philippines. But even there she did not feel safe from the man, who had threatened her that she would not get away from him alive. She had nothing with her except a small handbag, she had tied her passport around her belly. She could hardly walk because the evening before her husband had burnt her 15 times on the thighs with a cigarette to force her to have sexual intercourse with him. We took Lina to a doctor who was as horrified as we were. Lina and a girlfriend had been approached in the Philippines with the offer of going to Germany to marry a single, hard-working, well-off German man. The two women perhaps would not have had the courage alone, but together they decided to take the risk. They were both in dire economic straits and therefore wanted to go abroad to look for well-paid work or a husband. The marriage institute in Germany, the female tout said, could easily help them, other Filipinas had had nothing but excellent experience. Lina and her friend arrived in Frankfurt. At the airport the marriage broker was waiting to take her to her future husband. He took her return ticket before they left the airport. It was not until she was alone with the man in his flat that she realised what a helpless situation she was in. The marriage broker fobbed her off saying she shouldn't make such a fuss. The man threatened her with the police if she did not do what he wanted. She had no money, did not know where she was, could hardly speak any English and no-one understood her. Her friend was sent to Luxemburg. The man there was nice and she liked him, but he was not yet divorced.

These are not isolated cases. A woman came to our counselling centre; she was the ninth woman to be sent by a marriage broker to the same customer "for inspection." In Germany there are an estimated 60 marriage agencies with a total of 200 addresses, branch offices or licensees who specialize in finding "foreign, exotic women." In recent years it was mainly Filipinas who were "on offer" – as loyal, family-loving and strictly Catholic wives. It was more seldom that these agencies found Thai women and certainly did not specialize in them. This is due to a certain demand and to different stereotype images which have been formed. Filipinas have come to be seen as quasi-Europeans due to the Spanish colonial connection. Thai women, on the other hand, were presented for the sex business as "exotic, erotic, orchid-like creatures." This strict division seems to becoming less rigid in men's consciousness. This development is also a reaction of the dealers to the visa requirements and stricter controls. But statistics on German-Thai marriages kept by the Federal Statistics Office confirm this trend. Marriages with Asian women, Brazilian and Polish women are increasingly being arranged. There are also occasionally adverts for Mexican, Indonesian, Hungarian and less frequently Ghanaian women. The visa requirement for Asian countries seems to have led the marriage brokers to broaden their "range."

Apparently between 1982 and 1987, 12,000 Asian women were passed on to men by marriage brokers. The official marriage statistics kept by the Federal Statistics Office has records for the same period of only 8,558 marriages between Thai or Philippine women and German men. The actual figure is without doubt higher than this since many marriages take place abroad for the sake of ease. On the basis of certificates of non-impediment issued for German citizens, the German Embassy in Manila estimates that there were 100 marriages per month in 1989 and 1990. The German embassy in Bangkok puts the number of German-Thai marriages at 240 a year.

In the study quoted we proposed 66 measures designed to more effectively combat the problem of trafficking in women. Our recommendations on sex tourism and marriage brokering are listed below (study, pp. 331 ff).

Annabelle Gambe

## **Women as Guest Workers and Workers in the Tourist Industry – Exploitation or Instrument of Development?**

As a development strategy, an international division of labour – based on natural advantages such as favourable climatic conditions and a plentiful supply of cheap labour – promised great benefits to all countries concerned. For this reason, many countries specialized in producing goods which due to their specific advantages would make them competitive on the world market. Without taking into account the different levels of development in the Third World countries, the following can be said of this strategy: it relegated the technologically backward countries to the position of mere exporters of raw materials and some semi-finished products and permitted only the technologically advanced states to rise to become producers of high-value, capital intensive goods and modern technology.

After it had become evident that this division of labour was incompatible with the interests of the developing countries, this concept came to be seen as an attempt by the North to keep the countries of the Third World in a permanent state of under-development. In order to reduce their dependency on expensive imported goods many countries of the South turned to a new development strategy – the creation of their own industrial base to replace imports.

However, the investment needed to acquire and maintain the necessary machines proved to be far higher than had originally been assumed. As many of the new companies were dependent on government support for their survival, their operating costs became a permanent strain on the foreign exchange reserves of the country. Apart from that the sector also suffered from the very outset due to the lack of domestic demand caused by an uneven distribution of income.

However, when the economic development in the South began to stagnate and poverty continued to increase, many Third World countries reverted to their old export strategy: except this time they called the procedure "export-led industrialization." This meant that they tried to convince foreign investors to move their manufacturing companies to the developing countries. In doing this they hoped to profit from the influx of capital and modern technology and boost their own growth.

As a consequence vehement competition broke out amongst the developing countries to attract the greatest share of foreign investment. Particular incentives such as tax exemption, unlimited profit transfer to the mother company, an appropriate infrastructure, quantities of raw material and a pool of cheap labour were the "weapons" they used against each other.

As was to be expected, the industrialized countries welcomed the new export orientation of the South. Investments from private business began to pour in, accompanied by generous support for the governments concerned. The significance for the export promotion programmes of the countries is often used as a justification for granting loans for infrastructure projects.

### ***Export of female labour force as a form of crisis management***

One of the worst mistakes committed by most of the countries which operate an export-led industry is the one-sided approach they adopt. Whilst concentrating all their efforts on promoting the manufacturing industry they in reality create an enclave economy. The development in the rural areas where the majority of the population lives, stagnates. But it is precisely the impoverished countryside which supplies the factories with labour and the overwhelming majority of this labour force is made up of women.

Statistics show that in the export manufacturing zones of Asia, Africa and Latin America, in which the foreign companies are concentrated,

70 percent of all employees are women. "Women in South and South-East Asia are seen as obedient workers who can be easily manipulated and yet at the same time are very productive," it was established in a study (Mies 1986: 117). Despite inhumane working conditions, very low wages and even sexual assaults, many women still prefer working in a factory to living in poverty in the country.

The manufacturing industry, however, is not capable of absorbing the growing number of women seeking work. In addition to this, the battle for jobs is intensifying as better qualified women – both from rural and urban areas – are integrated into the army of job-seekers. However, many governments have found a simple solution to the problem of the rising unemployment rate which could lead to social unrest: the export of female workers. With their advantages over other workers – they are qualified, obedient and cheap – this section of the labour force has good chances on the international labour market.

One of the largest exporters of female labour force are the Philippines. Of the three million Filipinos who work overseas over half are women (WRRRC 1990: 4). The trend toward a dominance of women amongst people working abroad began as early as 1987, when the proportion of male workers in the overall total of emigrant workers sank to 51.7 percent, whilst the share of women rose to 48.2 percent.

Statistics from the Philippine Ministry of Labour (quoted from the official Philippine development plan for women between 1989 and 1992) show the geographical distribution of women working abroad for this period as follows:

Near East:	47.5 %
Asia:	46.3 %
Europe/North America:	5.3 %
Africa/Oceania and dependent areas:	0.9 %

At 59.2 %, the majority of women are employed in service industries, with 75.9 % of these working in domestic service. The remaining 34.8 % of all Filipinas working abroad are distributed across the

other sectors of the economy. At 50.3 %, however, the entertainment sector is the major employer.

In 1982 the Philippine government launched a programme for the systematic export of female labour force with an official comment by the then president, Ferdinand Marcos: "Working abroad," said Marcos, "solves two major problems at once: unemployment and the balance of payment deficit." To this end the Philippines set up a special department within the Ministry of Labour with the task of developing "a coherent strategy for recruiting Philippine workers." So-called "marketing missions" travelled the globe constantly seeking new markets for Philippine workers.

As a result of these measures the unemployment rate had sunk to 8.3 % by 1990 from 11.1 % in 1985. The number of people working abroad accounted for 34 % of the total work force (FEER 13 June 1991, 39). Apart from the welcome effect on the labour market, the export of labour since 1983 has enabled the Philippine economy to keep its head above water. By 1985 the money transfers from nationals working abroad had already become the country's second largest source of foreign exchange (CIIR 1987, 30). The sum alone which female workers send home each year amounts, according to cautious estimates, to 463 million US dollars (PDPW, 121), no negligible amount for a country which in 1990 had to pay 680 million US dollars in interest on its enormous foreign debt (FEER 13 June 1991, 39).

### *Women in the tourist industry*

Another area of the economy which developing countries began to promote when their import substitution strategy went into a tail spin is tourism. This development did not, however, appear completely out of the blue. As early as 1958 the US Department of Commerce and the Pacific Area Travel Commission had formed a special research group which travelled to countries in the Far East and Pacific to explore their development potential in the field of tourism. The so-called "Checchi Report," which summarized the results of the research, not only ascertained that tourism was completely absent from the region

but also made enticing statements about the "spectacular effects" which a development programme in this field could have (Wood 1979: 274). Success was not long in being forthcoming. As early as 1958–1968, international tourism began to grow and by the sixties was able to establish itself as the world's largest single "export article" (Wood: 274).

In the years which followed, tourism as an instrument of development received the extensive support of international organisations. Some United Nations (UN) resolutions even welcomed tourism as a fundamental and desirable human activity, deserving the good will and support of all people and all governments. In addition to that, the World Bank group began to promote international tourism in Third World countries with development funds. Together with the International Development Agency (IDA), the World Bank supported the setting up of the necessary infrastructure for tourism and provided technical support. For example, an application for a loan for the transport sector could often be substantiated simply by calling it an important contribution to the development of tourism in a country.

UN estimates indicate that, after the export of crude oil, tourism is the second largest source of foreign exchange for developing countries and has created jobs for some 50 million people (Nuscheler 1991: 108). In Thailand tourism is even the major source of foreign exchange. At an estimated three million US dollars per annum, tourism accounts for 5 % of the gross national product of the country and a third of all services (Schloßstein 1991: 196–197).

It is nevertheless also an undisputed fact that the development of prostitution is part and parcel of Thailand's tourist industry. Although it is illegal, it is in fact indirectly encouraged by the government. Reports say in this connection that a former Vice-Prime Minister of the country called upon the provincial governors to support the national efforts in the tourist sector by "promoting certain activities which some people may find distasteful or shocking because they are connected with sexual pleasures. This is, however, necessary in view of the jobs which will be created for people." (Mies 1986: 138; Schloßstein 1991: 197). According to official estimates, around

500,000 Thai women work as prostitutes, which is about one percent of the total population. Estimates by private institutions even put the figure as high as almost a million.

Similarly to the case of Thailand, tourism is the main source of foreign exchange for the Philippines. At 1.28 thousand million US dollars in 1991 (FEER 3 Sept. 1992: 40) it even brought in slightly more than the Filipinos working abroad, who in the previous year had sent home around 1.2 thousand million US dollars (FEER 13 June 1991: 42). Like in Thailand, prostitution is illegal in the Philippines. Nevertheless, it is estimated that there are approximately 250,000 prostitutes working there (WRRC 1990: 7).

In this context it is, however, important to mention that even before the plan to develop the tourist industry prostitution was a flourishing business both in Thailand as well as the Philippines and Vietnam. The presence of US forces and military bases in all three countries had long since made the region into the "Rest and Recreation Centre" for the soldiers stationed there.

Today, twenty years after the withdrawal of US forces from their bases in Northern Thailand, the US Pacific Fleet is still given an enthusiastic welcome when it enters a Thai port. When, for example, in Pattaya 8,000 US soldiers had shore leave and spent three million US dollars in the space of five days a hotel proprietor wanted the "decisive role which the US Navy plays in the local economy" to be acknowledged (Schloßstein 1991: 197).

Until recently, the largest US naval base west of Hawaii was Subic Bay in the Philippines. Since it was opened in 1904 this base has transformed the nearby city of Olongapo into the largest "Rest and Recreation Centre". When the ships of the US Seventh Fleet anchored in Subic Bay up to 10,000 US soldiers sought the services of between 15,000 and 17,000 prostitutes in the city of Olongapo. At the time of the Vietnam War, approximately 16,000 "hospitality women" – a euphemism for prostitutes – were registered in the city (WRRC, 7). The business brought in 500 million US dollars a year into Olongapo (Flamiano/ Goertzen: 125).

At the time of the withdrawal of the U.S.A. from Vietnam an estimated 400,000 prostitutes were working in Saigon, a figure which corresponds to the total population of the city in 1954 (Simbulan 1983: 252).

### *In conclusion*

It has become clear that in their desperate efforts to acquire foreign currency for their export-led industrialization programme various developing countries have discovered the female labour force as an effective way of acquiring foreign currency. In order to make full use of the potential at hand women are used in two ways: first to produce cheap export goods and secondly as export goods themselves, the women being sent to work abroad or in the tourist industry.

The women, however, scarcely benefit from this development process which they have helped to finance. With no job security and little social protection they are at the mercy of assaults from their employers. Attempts by the women working in the country to organize themselves are immediately quashed by repressive measures from the state. The women who take part in these attempts are dismissed. The situation is no better for the women who work overseas as domestic staff or in the entertainment industry. They too have no protection from arbitrary dismissal by their employers and they are kept silent out of fear for their jobs. They are an economic factor and yet powerless: that is probably the most accurate description of the situation of the female labour force.

Without radical structural changes to improve women's position in society their powerlessness will continue to ensure that the government will be able to determine what happens to these procurers of foreign currency. The powerlessness of the women only reinforces the state in its desire to consolidate its absolute control over the female workforce.

In the light of these circumstances will women in developing countries manage to perceive their chance to change their role and cease

being a mere instrument of development and become active participants? The struggle to transform society is difficult and tiring. Don't you women of the industrialized countries want to participate in the process?

### *Bibliography*

- Catholic Institute for International Relations (CIIR) 1987. *The Labour Trade*. London.
- Far Eastern Economic Review (FEER), various issues.
- Flamiano, Dolores/Donald Goertzen (eds.) 1990. *Critical Decade. Prospects for Democracy in the Philippines in the 1990s*. Berkeley, California
- Menzel, Ulrich 1993. *Geschichte der Entwicklungstheorie*. Hamburg
- Mies, Maria 1986. *Patriarchy and Accumulation on a World Scale. Women in the International Division of Labour*. United Kingdom.
- Nuscheler, Franz 1991. *Lern- und Arbeitsbuch Entwicklungspolitik*. 3rd edition, Bonn
- Philippine Development Plan for Women (PDPW) 1989-1992 Schloßstein, Steven 1991. *Asia's New Little Dragons*. Chicago.
- Simbulan, Roland G. 1983. *The Bases of our Insecurity. A Study of the US Military Bases in the Philippines*, Manila.
- Women's Resource and Research Center (WRRRC) 1990. *Information Kit on Filipino Women*, Manila.

Wilhelm Schwerdtfeger

## **Problems Encountered in the Prevention of Trafficking in Human Beings: The Police Viewpoint\***

### ***Improvements and problems encountered during police enquiries into cases of trafficking in human beings***

From the police viewpoint, the amendment to Article 181 of the Penal Code has closed significant loopholes and has eliminated difficulties in obtaining evidence when investigating cases in which foreign women have been forced into prostitution in the Federal Republic of Germany.

1. Matrimonial agencies are now subject to criminal prosecution if, knowing that a woman is in a position of helplessness because she is a foreigner, they exert an influence on her so that she must engage in sexual acts or must allow them to be done to her.
2. It is no longer necessary to prove that advantage has been taken of the helplessness of a woman. It is now sufficient when introducing someone into prostitution to have known of her predicament and, in the case of other sexual acts, to have known of the helplessness specific to foreigners. It is much easier to prove those elements of an offence.
3. Criminal prosecution for a person who recruits women for gain is the same as for a person who provides women for prostitution using cunning and deceit.

---

\* Notes from an interview with Wilhelm Schwerdtfeger in August 1993 by Pia Bungarten

4. The amendment has also clarified the legal position of women who were already prostitutes at the time they were recruited. In the past, the excuse was often given that trafficking in human beings cannot exist in the cases of prostitutes. It was thought in the Federal Republic of Germany that anyone who was already a prostitute in her own country, was not really a victim and, moreover, could not be considered a reliable witness. Charges often resulted in acquittal. The amendment now states that anyone who provides a woman for the "initiation into or continuation of prostitution" is subject to criminal prosecution.

It is not yet possible to evaluate the effects of the amendment of Article 181. Investigations into such cases require a great deal of time and money. There have not yet been any convictions to which the new version of the Act would have applied.

From the police viewpoint there are two main problems:

1. The problem of the right of residence for the women concerned, and
2. Insufficient regulation of telephone tapping.

The most serious problem is the lack of the right of residence for women affected by trafficking in human beings. At present a woman's decision to appeal to the police for help amounts to turning herself in, because women generally do not have residence permits for the Federal Republic of Germany and are therefore in violation of the Aliens Act. A woman who contacts the police must assume that she will be expelled or deported.

Therefore, improving the legal position of victims is of primary importance. The women should not become mere tools of the legal system, of interest only as witnesses in the criminal procedure. They should receive residence permits independent of the criminal proceedings and be allowed to work in Germany, at least temporarily. Limited toleration of that type would give the estimated 15,000 to 20,000 women who are currently living illegally in Germany a real

chance to break out of prostitution and would help to alleviate their financial plight. It would also help to counter problems linked to illegality, such as lack of medical care, and would to some degree relieve a life of fear and deprivation of rights.

Temporary toleration would currently be within the margin of discretion of the immigration officials. It is actually in the interest of the Federal Republic of Germany not to victimize these victims a second time by immediately deporting them. Objections that a provision of this type could be misused are not a sufficient reason for failing to try a new procedure. The effects of a new approach should be analyzed, and any resulting problems should be dealt with, but the door should not be definitively closed against the possibility of limited residency.

Another problem is encountered during investigations. Telephone tapping plays an important role in police enquiries, since the perpetrators operate in a subculture and always act conspiratorially, the female witnesses are afraid to talk, and the customers would obviously not benefit from the investigation. Telephone tapping is regulated by Article 100 A of the Code of Civil Procedure, which currently allows it in this context only in the investigation of trafficking in human beings for gain or related to deceit. It is not allowed in cases where a woman was forced into prostitution by violence (Article 181 para. 2 Penal Code). However, since the degree of illegality of all three variations in the offence is obviously equated, it can only have been an oversight that a corresponding addition was not made to Article 100 A of the Code of Criminal Procedure when amending Article 181 of the Penal Code.

***What about the police units responsible for investigating offences related to trafficking in human beings, and their training?***

There are no special units in charge of these problems. The job is taken care of by the Criminal Commissioner's Offices, more specifically the officers in charge of vice crimes. Their training includes learning how to handle problems of violence against women. There

are also courses on problems such as those related to rape and indecent assault.

The Organized Crime Unit also gets involved if there are indications that a case is not an isolated incident and involves organized recruitment for gain.

***What would improve the criminal prosecution of offenders abroad?***

It would be extremely helpful to make direct cooperation between police officials possible and to simplify procedures, which are currently extremely complex. Evidence is still not allowed before the court unless it has been obtained through the judicial system, i.e. the competent public prosecutor's office sends an enquiry through the federal public prosecutor's office, which passes it on to the Federal Ministry of Justice, which forwards it to the Foreign Office, which contacts the foreign office in the country concerned. The enquiry then follows a similarly tortuous path in that country until it finally lands on the desk of the official responsible for answering it. Given the increasing degree of international mobility and the related international criminality, international cooperation among police agencies must be simplified.

***What problems occur during police cooperation with offices for public law and order, health and aliens registration?***

There is a hitch with other officials' understanding of what's going on, for example, the officials at the aliens registration authorities. They should take a close look at what the applications say. For example, if residence permits are continually being requested for women folk dancers, they should ask themselves whether there's a real need, whether a folk dancing event is being planned and whether the place where the application states the event is to be held actually exists. The



administrative districts of the "Länder" should suggest improvements in the flow of information both within and between agencies.

***Are there differences between prostitution of foreign and German women?***

The foreign women cannot be viewed as a single group, because there are significant cultural differences among women from Asia, Eastern Europe and Africa. One thing they do have in common is that they are unfamiliar with German customs and language and with the legal system here. Their lack of knowledge and their uncertainty, and particularly their poverty, make them helpless in a way that German women are not. That may destine foreign women to completely different sexual acts from German women. Moreover, they often transfer to German society their unfortunate experiences with corrupt officials in their own countries and with pimps and do not dare to trust officials in this country.

***What about cooperation between the police and women's organizations?***

There are reservations on both sides. Many police officers are mistrustful of church and women's rights organisations, particularly if they are considered to be left-wing. By the same token, women's organizations often have strong prejudices against the police. That can only be changed by concentrating on the people concerned and by slowly coming closer together. People must become familiar with the constraints under which various institutions and organizations operate and be willing to view situations from another point of view.

There are problems for which the police are unable to provide help, for example, the mental and social condition of a victim. For example, if the police found work for a woman and provided her with financial support, they could be accused of manipulating a witness. Women's organizations are in a far better position to come to grips with such problems. Cooperation will have to be expanded one step at a time; it

is not something that can be ordained from above. It is helpful to report on the positive results of cooperation so as to break down prejudices and mistrust.

***What about criminal prosecution of men who use child prostitutes in other countries?***

According to the law that entered into force on 1 September 1993, German men who commit indecent assault on children in other countries are now subject to criminal prosecution. Such prosecution was previously possible only if the children were also German. Therefore, the basis for investigation has been created, but it will be extremely difficult to obtain evidence. Third World countries often do not have sufficiently advanced systems based on the rule of law, and there is a great deal of corruption. It is quite unlikely that information that will lead to investigation will reach Germany from those countries. It would doubtless be more effective to increase criminal prosecutions where the offences occur, for example in Thailand or the Philippines.

Friedrich-Wilhelm Schulte

## **Observations on the Twenty-Sixth Criminal Justice Amendment – Trafficking in Human Beings (26.StrÄndG)**

of 14 July 1992 – German Civil Code I p. 125 –  
entry into force 22 July 1992

### **1. The problem**

Experience indicates that criminal offenders operate internationally to recruit women and girls – particularly from South-East Asia, Africa and South America – so that they can use them as prostitutes in Germany. The offenders are generally brothel owners and pimps and are often members of international crime syndicates. They take advantage of the social and economic situation in the home countries of the women to delude them into thinking that they can improve their own social and economic condition by moving to Germany. Most of the women enter Germany as tourists, after which they are often forced into an illegal situation and then end up as prostitutes. They are completely isolated and live under inhumane conditions.

In addition, many cases have occurred in recent years where foreign women were recruited with the promise that a husband will be found for them. Those women, who had no return ticket and almost no cash, were provided to possible candidates "on trial" until they decided to work as prostitutes or in peep-shows.

Past experience from the prosecution of criminal offences involving sexual exploitation, particularly of foreign women, indicates that before entry into force of the Twenty-Sixth Criminal Justice Amendment Act, existing criminal law (particularly the previous version of Article 180 – Promotion of Prostitution and Article 181 of the Penal Code – Trafficking in Human Beings) did not always cover every type of behaviour that appears to be punishable. Moreover,

inherent difficulties in obtaining evidence in the social environment being investigated meant that individual aspects of applicable elements of an offence, particularly trafficking in human beings, could not be proven, although there were many indications of such a criminal offence. The result was that many offenders went free or could be punished only for far less severe crimes.

### **2. Legislation based on the Twenty-Sixth Criminal Justice Amendment Act**

The sharp increase in exploitation contemptuous of human dignity and new manifestations of it led to replacement of the former Article 180 a (Promotion of Prostitution) and Article 181 of the Penal Code (Trafficking in Human Beings) with new criminal provisions on trafficking in human beings in the Twenty-Sixth Criminal Justice Amendment Act. The Act entered into force on 22 July 1992.

The aim of the Act is to improve the provisions of criminal law to protect foreign girls and women from sexual exploitation, specifically the risks of forced prostitution, trafficking in human beings and so-called "marriage tourism". The following measures were intended to fulfil that goal:

- Article 180 b of the Penal Code (Trafficking in Human Beings) created new elements of an offence and simultaneously included and expanded the former Article 180 a, paras. 3 to 5 of the Penal Code. The previous provision against trafficking in human beings (Article 181) is now described as "aggravated trafficking in human beings".
- Instead of the recruitment for gain in Article 180 a, para. 3 of the Penal Code, it will now be sufficient for the offender to have exerted an influence on the victim for his own financial advantage and to have provided the victim for prostitution in knowledge of a difficult situation. Replacing the element of the offence "for gain" with the description "for his own financial advantage" will now

make one-time provision in return for money or similar reward a punishable offence (Article 180 b, para. 1, clause 1, Penal Code).

- Women who are taken advantage of due to their specific helplessness as foreigners will now enjoy the same protection against sexual exploitation as young people under the age of 21 years (Article 180 b, para. 2, Penal Code).
- Moreover, the protection of women who at the time of the offence were already engaged in prostitution and who were provided so they will continue as such has been improved both in the new Article 180 b and in the reworded Article 181 of the Penal Code. Henceforth Article 181, para 1, no. 3, Penal Code will also include recruitment for gain of foreign girls and women who at the time of the offence were already employed as prostitutes in their own countries, and will be punishable by imprisonment for between one and ten years.
- Foreign women, in particular, will now also be better protected against sexual exploitation outside of prostitution, particularly "marriage tourism" and "commercialization" in peep-shows and the like (Article 180 b, para. 1, clause 2, Article 181, para. 1, no. 2, Penal Code).

### **3. Additional measures subsequent to the Twenty-Sixth Criminal Justice Amendment Act**

The Prevention of Trafficking in Illegal Drugs and Other Manifestations of Organized Crime Act (OrgKG) of 15 July 1992, Code of Civil Procedure I, p. 1302) entered into force on 22 September 1992.

The Act complements the Twenty-Sixth Criminal Justice Amendment Act in two important areas:

- First, the measures taken in the Organized Crime Act to improve witness protection (Article 68 of the Penal Code) will also benefit

women affected by trafficking in human beings, who could be important witnesses at trial.

- Second, the new legal institutions of seizure of assets and the expansion of forfeiture are also applicable under certain conditions (activities for gain or gang activities) to cases of aggravated trafficking in human beings according to Article 181 of the Penal Code (Article 181 c Penal Code). That significantly improves the remaining ways in which to seize illegal profits from trafficking in human beings.

### **4. History of the act**

The Twenty-Sixth Criminal Justice Amendment Act dates back to an initiative by the German state of North Rhine-Westphalia in 1990 (Bundesrat [Upper House] publication 567/90). The Bundesrat voted on 8 November 1990 to submit the amended bill to the Bundestag [Federal Parliament] (Bundestag publication 12/2046).

After some amendments and additions, the Federal Government approved the bill in its opinion (Bundestag publication 12/2046, p. 7 f.). During the first debate on 20 February 1992 (plenary record 12/79), it became clear that there was fundamental agreement on the criminal measures but that other, non-criminal measures to improve the situation of the women affected would need further examination.

On 11 March 1992 the Legal Affairs Committee of the Bundestag asked the Federal Government to propose a version that could implement the amendments and additions suggested in its opinion. That proposed version was approved in full detail during a rapporteur's discussion on 30 April 1992. The version recommended by the Legal Affairs Committee (Bundestag publication 12/2589) and the bill passed by the Bundestag on 20 May 1992 are identical to the version proposed by the Federal Government.

### 5. Future of the act

The Twenty-Sixth Criminal Justice Amendment Act contains the necessary criminal measures to improve the protection specifically of foreign girls and women against sexual exploitation. It should be noted that criminal law is an important, but by no means the only, aspect of a comprehensive set of measures to combat trafficking in human beings, forced prostitution and marriage tourism. It is not a panacea to cure all problems involved in this multi-faceted area. According to the German Constitutional Court, criminal law is also "the ultima ratio in the set of legislative instruments" and must therefore be limited to punishable violations against sexual self-determination.

Therefore, the German Federal Government welcomes any other measures that will improve the protection of foreign girls and women from sexual exploitation. It believes that the new criminal provisions will be effective only if the overall personal, economic and social position of women can be improved by related measures in other areas.

Elke Bröder

### Summary of the Discussion

In her introductory talk, the Filipina political scientist Annabelle Gambe described the role played by women in the network of current development strategies: stopgaps and victims of improperly-managed development.

Production for export, like investment from abroad, had been and continued to be considered the key to growth for the developing countries. According to Gambe, women made up the lion's share of the labour force in the factories of foreign conglomerates because they were patient, productive and low-paid. Rural areas, where most people lived, were falling behind the industrial areas that received regular government subsidies, and the inhabitants were flooding the large cities in search of work. But there simply were not enough jobs.

The Marcos government in the Philippines, her native country, had feared the threat of social unrest, which had led it to kill the two birds of unemployment and of insufficient foreign exchange with one stone. In 1982 Marcos had begun preaching the benefits of working abroad. Annabelle Gambe explained that women had soon made up half of all Filipino foreign workers. For example, about 80,000 Filipinas worked as domestic helpers in Hong Kong under contracts limited to one- or two-year periods. The vast majority of exported working women not only entered service as household help, but also worked as "entertainers," a term that covered bar girls and prostitutes.

A member of the audience asked whether the government was aware that sexual services were being exported. Annabelle Gambe answered in the affirmative, saying that the women received a government license for the profession of "entertainer". Prostitution as a consequence of tourism was accepted or even encouraged in a way that is not merely indirect. For many Southern countries, income from tourism was the second most important source of foreign currency after oil. Annabelle Gambe estimated that between 500,000 and 1 million

Thai women worked as prostitutes. As in most countries, commercial sex was banned in Thailand. However, many tourists travelled to Thailand primarily for the inexpensive prostitutes, who were also perceived as exotic.

Lea Ackermann, a Catholic nun and co-author of a study by the German Federal Ministry for Women and Youth, provided data to illustrate the importance of sex tourism. For example, out of five million foreign visitors to Thailand in 1990, 70 percent had been men traveling alone. According to studies, half of them had been looking for commercial sex. In the Philippines, too, men made up well over half of all foreign holiday-makers. "The typical sex tourist comes from the West and the North. He puts his money and his 'importance' on display in these countries," declared Lea Ackermann, who spent eight years working with prostitutes in African countries.

The price tourists paid for one night seemed cheap to them, but it represented a great deal to the women. A tourist prostitute in Kenya could sometimes earn more in one shift than a market woman earned in a month. However, if no customers come along for two nights, the brothel owner would sell the women's clothing, which was their operating capital. She added that rooms cost about 10 marks a day. And when the women got old they ended up in the worst slums for prostitutes serving local customers, earning only a few pennies and often falling ill.

Lea Ackermann reported that both pimps and the police earned money off the women. When prostitution is illegal, as it is in Kenya, the police has the legal means to carry out raids. Women often face a choice between six months in jail or a 200 mark bribe to the policeman. In spite of that, it is rare to find solidarity among the women, said Ackerman. Competition for customers and income prevent them from joining forces.

Even Annabelle Gambe could not report on examples of proper organizations for prostitutes in the Philippines. However, there were attempts, particularly by women church activists to influence the women. An important component of such work was providing an

explanation of health risks and promoting the use of condoms. Lea Ackermann added that AIDS was a real threat to the women who earned a living providing sexual services. It had been estimated that 3 million women suffered from AIDS in Central and East Africa.

Juliane von Krause, from the Campaign Against Child Prostitution in Sex Tourism, reported that children (both boys and girls) played an increasing role in the business. Thailand, Taiwan, the Dominican Republic and Brazil were particularly popular holiday spots for paedophiles. In contrast to the benign attitude shown by many governments with regard to the prostitution of women, there was resistance to traffic with children. For example, the new government in Thailand was carrying out raids on the centres for paedophile tourists. A strict law had also come into force in the Philippines last summer, and tourists who were found with an unaccompanied Filipino child in a hotel room could be punished.

However, according to Annabelle Gambe, the dependency of the countries on foreign currency made any firm proceedings against "normal" sex tourism impossible. Moreover, the German criminal authorities did not consider a sex tourist to be a wrongdoer if he was not a paedophile.

Brigitte Adler, a member of the Bundestag [German parliament] for the Social Democratic Party, expressed her impatience with the passive position of the German government in this matter. In response to a question in the Bundestag asking for an evaluation of sex tourism by Germans in Thailand and the Philippines, the government had responded that it saw no need for action. Brigitte Adler had received an impression of prostitution by children and women during a parliamentary meeting in Thailand. She had been shocked to see 12- or 13-year-olds walking the streets and to learn that they were often sold by their parents.

Paedophiles from Germany could previously indulge their compulsive predilections in other countries without the fear of punishment. But as Friedrich-Wilhelm Schulte from the German Federal Ministry of Justice explained, a bill had been submitted to the Bundestag that

would extend punishment to sexual offences committed abroad. The bill was specifically devoted to sex tourism involving children. Criminal law in the Federal Republic had previously contained loopholes in that sector, but they had now been closed, according to Schulte.

The statute of limitations for sexual abuse of children had been extended. Moreover, the German government had also strengthened the statutory provisions against child pornography. Friedrich-Wilhelm Schulte conceded that the increasing pressure in Germany could force customers for pornographic videos and picture books featuring children, as well as the people who produce them, to move to other countries. The first child sex films obviously made in Ceylon or Thailand had already appeared. Men seeking direct sexual contact with children already obtained it abroad.

Juliane von Krause expressed regret that police officials in the different countries did not actually cooperate with the German agencies. Friedrich-Wilhelm Schulte emphasized that talks were underway with Thailand in an effort to improve cooperation. But Mr. Schulte warned against excessive hopes. Even with the best possible laws in Germany, criminal prosecution could not work without records of interrogations, witness statements from the countries concerned and, in particular, without charges being brought.

Lea Ackermann complained that there were also loopholes in the law and its enforcement with regard to German marriage agencies offering women from Third World countries. These women were regularly bought and sold. Often they were prostitutes who, seduced by the wealth of tourists, had allowed themselves to be taken back to the country of those tourists or advertised there. Some of them were treated like slaves once they reached the "promised land." Lea Ackermann had heard of a man who had married a woman from Cameroon and not allowed her to leave the house, forcing her to care for his father, who was seriously ill. And a released convict had "obtained" a wife from the Dominican Republic and forced her to earn a living on the street. Most of the women did not speak German and were without friends, making them helpless and forcing them to rely on their husbands for better or for worse.

At some marriage bureaus customers paid between 7,000 and 15,000 marks to order wives from a catalogue, to try them out for three or four weeks and then send them back without charge. Women from Southern countries were particularly unprotected in such trial marriages, since they had no permanent right of residency. According to Lea Ackermann, they often became pregnant. She reported on a woman who came to her for advice because she was her husband's ninth trial wife, had become pregnant and was now being sent home.

Lea Ackermann complained that current laws discriminated against such women. When the men did not want them any more, the women often went to immigration officials, who then had them deported. They had to pay for their own return trip unless they could find an institution to assist them.

In that regard, Brigitte Adler mentioned a parliamentary question in response to which the Federal government stated that it did not consider special protective legislation for foreign wives to be necessary. Such policies were rather unconvincing, since ultimately it was German authorities abroad who issued entry permits and visas to the women, sometimes when the reason for entering Germany was obvious. For example, women from Southern countries received work permits as "folk dancers."

Folk dancing actually meant scanty clothing and working in bars and brothels. According to Lea Ackermann, in some cases where fraud was detected, the women were prosecuted instead of the pimps or bar owners. They were expelled on the spot.

Friedrich-Wilhelm Schulte defended the Federal government against charges of inactivity and referred to amendments to the Penal Code that entered into force on 22 July 1992. They made things more difficult for marriage brokers, traffickers in human beings and the forced prostitution organizations, and protected the affected women better than before. Previously it had been extremely difficult to prosecute the people who trafficked in women. In fact, a ruling by the Federal Court of Justice had led to those changes, because the judges required for conviction that the women who had been "sold" had been

misled. For example, if a woman had previously worked as a prostitute in her own country, it had been unclear to the Court whether she had been forced onto the streets in Germany and whether that was to her disadvantage.

Mr. Schulte explained that the term "trafficking in human beings" is used more broadly today. It included not just selling women for purposes of prostitution but also, subsequent to the changes in the Penal Code, to the organized provision of women for peep shows and as so-called candidates for marriage. He reckoned that more criminal prosecutions and sentences were now possible. However, since the law had been amended only a year ago, the Federal Ministry of Justice did not have a clear view of whether and how reform had been successful.

Reform also included provisions that were part of the set of laws to combat organized crime, which included trafficking in human beings. Witness protection had been improved, a measure aimed particularly at providing greater security to women. It had repeatedly been observed in court how young women from Southern countries had been intimidated and had remained silent out of fear.

There remained the question of who was keeping an eye on organizations that make money out of women. Josef Limbach of the North Rhine-Westphalia Economics Ministry stated that matrimonial agencies were subject to the trade supervisory authorities. In Bavaria and North Rhine-Westphalia officials had the authority to search the premises of marriage bureaus. The trade supervisory authorities could intervene if their activities were contrary to public welfare.

However, Mr. Limbach left little room for hope that industrial law could provide a suitable instrument against the crooks of that sector. Ultimately it was only clutching at straws. For example, he had instructed the officials below him in the hierarchy, the supervisory boards, to follow up evidence which had come to him from the Minister for Women in North Rhine-Westphalia. The list of wrongful traffickers of women turned out to be a complete waste of time for the trade supervisory authorities. His own officials had discovered nothing. That was because their authority was quite limited and could

not be compared with that of the police, according to Mr. Limbach. Accounts could be audited, but nothing illegal was shown on the books. Moreover, there was not enough manpower to inspect every marriage bureau regularly. Officials already had more than enough to do ferreting out illicit employment, as instructed by the politicians. However, Mr. Limbach appealed against simply forgetting the trade supervisory authorities. He offered to provide specific instructions to the agencies so that they could take action. The most serious threat to a fraudulent marriage broker was a prohibition of trade procedure, which could go all the way to the Federal Court of Justice.

Juliane von Krause appealed for more information in any case. Talks were underway with tour organizers in an effort by the Campaign Against Child Sex Tourism to convince the major players in the industry to introduce a provision in their contracts with the hotels in other countries stating that local children could not be taken to hotel rooms.

Both male and female participants agreed at the end of the meeting that legal provisions alone could not solve the problem. But the women expressed the wish for more activity by the state to prevent trafficking in women from the South to the North.

Brigitte Adler suggested that in general tourism projects related to development aid should be evaluated according to strict criteria. And Annabelle Gambe urged that economic policies should help Southern countries instead of harming them, as had previously been done by the world economic system. Lea Ackermann stressed the close connection between long-distance tourism and prostitution in Southern countries. She particularly hoped for legal improvements for the women brought to Germany by the marriage agencies, such as a requirement that men pay a deposit to guarantee the return trip of the woman and a right of residency in Germany for the woman even if the prospective husband rejected her after a trial period.

Marie Wurster

## **Summary of the Most Important Recommendations of the Study "Context and Extent of Trafficking in Foreign Girls and Women" Carried Out by the Federal Ministry for Women and Youth**

This paper summarizes the most important recommendations of the study "Context and extent of traffic in foreign girls women," carried out by Dr. D. Heine-Wiedenmann and Dr. Lea Ackermann for the Federal Ministry for Women and Youth.

Five years ago publications began to appear on the problem of sex tourism in developing countries. Serious studies give an insight into the typical situation in which women from developing countries are forced into prostitution. The topic has also moved into the public consciousness. Even the tabloid press have given it coverage. Unfortunately, it often seems that the topic is being looked at to feed a craving for scandal or voyeurism. Many reports deepen prejudices about women's sexuality which are discriminatory to women and degrading or they give insider tips disguised as articles on the problem of sex tourism.

Now that the extent and the processes of trafficking in human beings have been recognized, it is all the more important to take appropriate steps and implement both preventive measures as well as effective measures to close loopholes in the law.

Sex tourism, shady marriage brokering and trafficking in human beings go hand in hand and are mutually dependent. In order to overcome this problem with its manifold causes, the authors Dr. D. Heine-Wiedenmann and Dr. Lea Ackermann divide up their catalogue of demands to correspond with the three categories of problems. The measures recommended should be carried out simultaneously to create a strategy which is as effective as possible.

The demands are:

1. Sex tourism should be restricted by
  - Cooperation with tour operators and airlines. In practice that means removing hotels explicitly geared to prostitution from the travel brochures and removing advertising photographs which are degrading to women.
  - Setting up women's projects designed for very specific target groups which should be supported by the Federal Ministry for Economic Cooperation.
2. To enable better checks on the work of shady marriage agencies the following recommendations are made:
  - Mandatory licensing should be introduced for marriage agencies which set up contacts with foreign women.
  - All matrimonial and dating agencies should be obliged to inform the aliens registration authorities and the Federal Border Guard of the arrival of foreign women in the country for marriage purposes.
  - Commercial agencies working beyond national borders should be banned or placed under the responsibility and control of charitable organizations.
  - To protect the women, entry into the country for marriage should be permitted only upon producing of a permanent visa.
  - The women concerned should be advised in their home countries of the risks of marriages arranged by commercial agencies.
  - A general amnesty coupled with a limited residence permit should be issued for foreign women living illegally in Germany and thus in a situation where they are open to blackmail.
  - Due to the clearly diverging evaluations of the contraventions against Article 92 of the Aliens Act, the legislative powers should clarify in what framework these contraventions should be prosecuted in the future and whether in view of other acts of trafficking in human beings a penalty under criminal law (instead of under administrative law which is the case at present) would not be more advantageous.



- Closer cooperation and provision of mutual information between police, aliens registration authorities and the trade supervisory authorities about criminal marriage brokering is urgently recommended.
- In cases of separation or divorce of a binational marriage and where the foreign women are faced with the threat of deportation, the case should be reviewed even before the three year mandatory period is over to establish whether it is a case of hardship. This hardship regulation could be an effective instrument against possible human rights violations.
- It would be expedient for women's organizations to have the right to take legal action against immoral advertising for dating agencies or adverts for women in a way comparable to the consumer organizations.

### 3. In order effectively to combat trafficking in human beings:

- Cooperation and harmonization of activities between the criminal investigation department and the offices for public law and order should be intensified, and
- consideration should be given to liberalizing and decriminalizing prostitution.

In introducing and implementing the above measures the lot would fall particularly to the legal system, the police and offices for public law and order, aliens registration authorities and public health authorities. Dr. D. Heinemann and Dr. L. Ackermann point out that these authorities themselves need to introduce improvements in attitude and organization in order to combat the trafficking with girls and women.

On the basis of their experience within the legal system, the authors particularly recommended changing Article 181 of the Penal Code. An amendment of Article 181 has in the meantime been undertaken. A detailed comment on this amendment can be found in the texts of Mr. Schulte (Federal Ministry of Justice) and Mr. Schwerdtfeger (State Criminal Office of Düsseldorf). Both consider, however, that it is not yet possible to pass definitive judgement on this amendment.

The authors of the study further advise that:

- Women should on no account be deported immediately after being questioned by judges. As the cases researched by the authors show, this questioning by judges is not sufficient. Material which is subsequently evaluated can no longer be presented to the witnesses. In addition to this, the deported women can rarely reenter the country for the trial as they have usually gone into hiding in their home country. This is often used as a pretext for closing the case.
- In the case of witnesses not being present at the trial the judges' cross-examination of the women should be read out even if the defence counsel protests.
- The women concerned should be accommodated in charitable institutions until a decision is taken on whether they are to be deported. Coordination between the public prosecutor's office and the aliens registration authority could make it possible for the women's stay in the country to be tolerated until the end of the trial. This is already being practised in Lower Saxony. These women who are the victims of trafficking in human beings should not be put on remand pending deportation.
- There should be a clear separation of functions, i.e. the women should be questioned as witnesses and not be simultaneously prosecuted on the grounds of illegal entry into the country or prostitution.
- The treatment of witnesses in court should be improved. The accused and the victims should not have to wait in the same room before the trial begins. Similarly, the accused should not be present when the judges are questioning the victim.
- It should be ensured that the women are given full and precise information, including advice of their rights to bring incidental action as victims of trafficking in human life and of their rights of access to a lawyer.
- Under the Protection of Victims Act financial support for the victim from the convicted party should be granted as compensation.

The following organizational changes would assist the implementation and amplification of the above recommendations:

- Only public prosecutors specialized in cases of traffic in human beings and with relevant experience should be appointed.
- The proceedings should be handled by one public prosecutor as part of a collective procedure. He or she should at the same time present the case at the trial.
- In court cases concerning trafficking in human beings the public prosecutors should not change in midtrial because this could have a negative effect on the trial.

For the police's area of competence it is asked that:

- Local criminal investigation departments have better financial and staff resources to deal with sexual offences. Because of sometimes complicated investigations abroad, offences of trafficking in human beings also fall under the jurisdiction of the Federal Criminal Police Office and those of the federal states. Only in exceptional cases should they be dealt with by local police forces and then by special units. In addition to this, each federal agency should have specialists in trafficking in human beings available whom it can call upon to give advice in a flexible manner about new procedures of trafficking in human beings.
- Training courses dealing with trafficking in human beings and organized crime should be provided.
- Close cooperation and harmonization of efforts between special units dealing with trafficking in human beings and the criminal investigation departments should take place during investigations.
- Exchange of information between criminal investigation departments, aliens registration authorities and women's counselling centres should be expanded.